

Message Text

LIMITED OFFICIAL USE

PAGE 01 USBERL 01653 230239Z
ACTION L-03

INFO OCT-01 ISO-00 DRC-01 EUR-12 /017 W
-----050401 230247Z /65
R 221515Z JUN 77
FM USMISSION USBERLIN
TO SECSTATE WASHDC 4784
INFO AMEMBASSY BONN

LIMITED OFFICIAL USE USBERLIN 1653

STADIS////////////////////////////////

DEPT FOR L/M HUMMER, L/EUR GANTZ, FADRC

BONN FOR PFUND

E.O.11652: N/A
TAGS: OGE, AINF
SUBJECT: IRS INQUIRY: PRIVACY ACT

1. SUMMARY: IRS ATTACHE IN BONN HAS REQUESTED CERTAIN INFORMATION FROM USBER AND BERLIN BRIGADE TO FACILITATE HIS INQUIRY INTO WHETHER USG SHOULD BE WITHHOLDING INCOME AND SOCIAL SECURITY TAXES FROM US CITIZENS OR PERMANENT RESIDENTS WHO RECEIVE SALAREIS PAID OUT OF OCCUPATION COST BUDGET FUNDS. IN THE COURSE OF HIS INQUIRY HE HAS REQUESTED CERTAIN INFORMATION FROM USBER WHICH USBER BELIEVES IS PROTECTED BY PRIVACY ACT. END SUMMARY.

2.DURING WEEK OF 8 JUNE , IRS BONN ATTACHE TRAVLED TO BERLIN FOR SERIES OF MEETINGS AT HIS REQUEST WITH USBER AND USCOB PERSONNEL. IN BRIEF, HE HAD HEARD (PROBABLY CORRECTLY) FROM VARIOUS US MILITARY PERSONNEL AND DEPENDENTS IN GERMANY THAT A NUMBER OF US CITIZENS WHO RECEIVE THEIR SALARIES UNDER OCCUPATION COSTS BUDGET
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 USBERL 01653 230239Z

(OCB) AND ARE PAID IN D-MARKS DO NOT REPEAT NOT REPORT OR PAY US INCOME TAX ON D-MARK SALARIES. HE NOTED THAT FOR SUCH WORKERS (WHO IN LARGE PART ARE DEPENDENTS OF US MILITARY PERSONNEL IN BERLIN) NO WITHHOLDING IS MADE OF US INCOME OR SOCIAL SECURITY TAX. SIMPLY PUT, HIS VIEW WAS IF THE USG WERE IN IRS TERMS THE " EMPLOYER" OF THESE PERSONNEL, THE USG MUST REPEAT MUST WITHHOLD

USG INCOME AND SOCIAL SECURITY TAX (AND ACCORDINGLY PAY THE EMPLOYER'S SHARE); AND, EVEN IF THESE PERSONNEL ARE NOT USG EMPLOYEES, THEY MUST NONETHELESS REPORT INCOME EARNED, EVEN IF LATTER IS PAID IN D-MARK CURRENCY.

3. AT BEGINNING OF MEETINGS 8 JUNE , IRS ATTACHE STATED HE HAD REACHED NO CONCLUSIONS ON THE ISSUES. HOWEVER, BY THE TIME OF HIS DEPARTURE TWO TO THREE DAYS LATER AFTER HE HAD CONSULTED PERSONNEL IN BERLIN ON THE OPERATION OF THE OCB, HE ADVISED USBER AND USCOB OFFICERS THAT IN HIS OPINION USG MET THE IRS TESTS OF BEING THE "EMPLOYER" OF SUCH D-MARK PERSONNEL, AND THAT HE WOULD SO ADVISE IRS UNLESS USBER OR BONN COULD PROVIDE INFORMATION TO THE CONTRARY.

4. USBER STRONGLY ADVISED IRS ATTACHE THAT IN ORDER TO CONFIRM HIS UNDERSTANDING OF OCB AND THE EMPLOYMENT OF PERSONNEL PAID UNDER THAT BUDGET, HE SHOULD CONFER WITH ADMIN IN BONN PRIOR TO SUBMISSION OF A REPORT. IN ADDITION, USBER SUGGESTED IRS ATTACHE ALSO ADVISE AMBASSADOR STOESEL PRIOR TO SUBMISSION OF A REPORT TO IRS, SINCE IT APPEARS THAT HIS FINDINGS WOULD RESULT IN AN INCREASE (AT THIS STAGE, OF INDETERMINATE SIZE) IN THE OCB. THE IRS ATTACHE UNDERTOOK TO DO BOTH.

5. USBER BELIEVES BONN SHOULD BE THE LOCUS, OF THE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 USBERL 01653 230239Z

DISCUSSIONS WITH THE IRS ATTACHE. USBER WAS NOT ABLE TO ADDRESS THE MAJORITY OF HIS QUESTIONS BECAUSE THEY RELATED PRIMARILY TO U.S. MILITARY DEPENDENTS IN BERLIN AND THEIR RELATIONSHIP TO THE OCB. HOWEVER, THE MATTER IS CLEARLY NOT A PURELY MILITARY QUESTION, AND WE SUSPECT AMEMBASSY BONN MAY POSSESS MORE COMPLETE KNOWLEDGE OF THE OCB-MILITARY DEPENDENT RELATIONSHIP THAN ANY PERSONNEL IN BERLIN POSSESS.

6. IN ORDER TO PURSUE HIS INQUIRY, THE IRS ATTACHE REQUESTED CERTAIN INFORMATION FROM USBER AND USCOB. MUCH OF THIS INFORMATION WAS PROVIDED. HOWEVER, THE IRS ATTACHE WAS DENIED ACCESS TO THE NAMES, SOCIAL SECURITY NUMBERS AND PAYROLL INFORMATION OF PERSONS PAID UNDER THE OCB. THE VAST MAJORITY OF THE PERSONNEL CONCERNED ARE USCOB AFFILIATED; ONLY THREE ARE USBER AFFILIATED.

7. SPECIFICALLY, THE IRS ATTACHE HAD REQUESTED, INTER ALIA, " THE NAMES AND U.S. SOCIAL SECURITY NUMBERS OF THE EMPLOYEES WHO ARE AMERICAN CITIZENS EMPLOYED BY EACH INSTRUMENTALITY OR AGENCY OF THE UNITED STATES FOR WHOM WITHHOLDING AND SOCIAL SECURITY TAX IS NOT WITHHELD

AND PAID OVER TO THE U.S. TREASURY " AND " THE PAYROLL RECORDS FOR 1975 AND 1976 SHOWING THE AMOUNTS EARNED BY THE US EMPLOYEES MENTIONEDABOVE".

8. REFERRING TO SECTION 6 (SMALL CASE A) 5(7) OF THE STATE PRIVACY ACT REGULATIONS (AND 5 U.S.C. 552 (SMALL CASE B) (7)). USBER LEGAL ADVISER ADVISED THE IRS ATTACHE OF HIS UNDERSTANDING THAT STATE DEPT. REGULATIONS PROVIDED THAT SUCH NAME RETRIEVABLE AND SOCIAL SECURITY INFORMATION COULD NOT BE PROVIDED TO IRS ABSENT A WRITTEN REQUEST FROM THE HEAD OF IRS TO THE DEPARTMENT. IRS ATTACHE WAS CLEARLY TAKEN ABACK BY THIS STATEMENT. HE FIRST REGARDED IT AS A REFUSAL TO PROVIDE INFORMATION. USBER LEGAL ADVISER SAID IT WAS NOT A REFUSAL, BUT CERTAIN PROCEDURES HAD TO LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 USBERL 01653 230239Z

BE FOLLOWED BEFORE DISCLOSURE COULD BE MADE. IRS ATTACHE RETORTED THAT IRS NEVER PROVIDES SUCH A PRIOR WRITTEN REQUEST WHEN EXAMINING THE RECORDS OF CORPORATIONS. LEGAL ADVISER NOTED THAT THE LATTER WERE NOT WERENOT SUBJECT TO PRIVACY ACT RESTRICTIONS. IRS ATTACHE THEN REMARKED THAT HE HAD UNDERTAKEN A NUMBE OF INQUIRIES IN GERMANY, AT BOTH US CONSULAR AND MILITARY POSTS, AND HAD NEVER BEEN ADVISED THAT THE PRIVACY ACT WAS PERTINENT TO IRS INQUIRIES. IN THIS REGARD, USBER LEGAL ADVISER ASKED IRS ATTACHE IF HE COULD POINT OUTTHE APPLICABLE PROVISION IN PRIVACY ACT PERMITTING DISCLOSURE TO IRS. THE ATTACHE COULD NOT DO SO BUT MERELY REFERRED TO IRS' GENERAL AUTHORITY TO EXAMINE SUCH INFORMATION. LEGAL ADVISER DID NOT QUESTION THAT AUTHORITY, BUT NOTED THAT PRIVACY ACT APPEARED TO OBLIGE STATE NOT TO DISCLOSE SUCH INFORMATION TO IRS EXCEPT UPON A WRITTEN REQUEST FROM THE HEAD OF IRS.

9. USBER UNDERSTANDS THAT STAFF JUDGE ADVOCATE HAS TAKEN SIMILAR POSITION WITH REGARD TO RECORDS IN MILITARY POSSESSION PERTAINING TO US CITIZENS.

10. USBER LEGAL ADVISER AGREED TO CONVEY IN WRITING HIS FINDINGS TO IRS ATTACHE AND INDICATED THAT DEPARTMENT VIEWS ON THE MATTER WOULD BE SOUGHT,

11. ACTION REQUESTED:
FOR DEPARTMENT: PLEASE ADVISE WHETHER PRIVACY ACT IS APPLICABLE IN THIS MATTER.

FOR BONN. USBER RECOMMENDS EMBASSY OFFICERS RESPONSIBLE FOR OCB DISCUSS MATTER WITH IRS ATTACHE AND LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 USBERL 01653 230239Z

ADVISE USBER OF ANY ASSISTANCE WE MAY
PROVIDE.
GEORGE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Sent Date: 22-Jun-1977 12:00:00 am
Decaption Date: 22 May 2009
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USBERL01653
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770223-0870
Format: TEL
From: USBERLIN
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770629/aaaaazfy.tel
Line Count: 178
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 6e686078-c288-dd11-92da-001cc4696bcc
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: STADIS
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 03-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2063051
Secure: OPEN
Status: NATIVE
Subject: IRS INQUIRY: PRIVACY ACT
TAGS: OGEN, AINF, WB, US
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/6e686078-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009